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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,875	12/17/2001	Tsuyoshi Kano	SONYJP 3.0-857	2738

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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01/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/021,875	KANO ET AL.	
	Examiner	Art Unit	
	Michael Van Handel	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 26-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/2007 has been entered.

Response to Amendment

1. This action is responsive to an Amendment filed 10/29/2007. Claims **1-15, 26-34** are pending. Claims **1, 8, 26, 34** are amended. Claims **16-25, 35-56** are canceled. The examiner hereby withdraws the rejection of claims **1-56** under 35 USC 112, first paragraph in light of the amendment.

Response to Arguments

1. Applicant's arguments regarding claims **1, 8, 26, and 34**, filed 10/29/2007, have been fully considered, but they are not persuasive.

Regarding claims **1, 8, 26, and 34**, the applicant argues that neither Benyamin et al. nor Marko et al. discloses key information, which includes a plurality of keywords using logical OR and AND connectors. The examiner respectfully disagrees. The examiner first notes that the features upon which applicant relies (i.e., includes a plurality of keywords using logical OR and

AND *connectors* (italicized for emphasis)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Benyamin et al. discloses that a user may add criteria to a play list for automatically adding tracks. The criteria can be a set of one or more boolean expressions, one or more tests, one or more data values which must be matched, etc. Examples of information that can be matched in play list criteria includes artist name, title, album name, year of recording, genre, tempo, source, file bit rate, similarity information, etc. The criteria can be added by inserting data into fields of a template, by writing boolean expressions, or by selecting or entering data or boolean expressions using menus (col. 13, l. 47-57). The examiner notes that both AND and OR are boolean operators used in boolean expressions (see definition of "boolean expression" at http://webopedia.com/TERM/B/Boolean_expression.html). Benyamin et al. further discloses that criteria for a play list may include multiple terms. For example, the criteria for a play list can specify a genre and time frame. In one example, a user may create a new play list called "early Beatles." The criteria entered would include the artist name being equal to "Beatles" and date field being equal to "prior to 1965." Additional criteria could also be used (col. 13, l. 59-65 & col. 14, l. 24-27, 51-55). The examiner interprets the "prior to 1965" criteria as using OR logic, because the year must be one of: 1964 or 1963 or 1962 or 1961, etc. to satisfy the criteria. The examiner further notes that the artist name criteria "Beatles" is combined with the "prior to 1965" criteria using AND logic. That is, tracks must match have the artist name "Beatles" and further must have time frame "1964" or earlier. As such, the examiner interprets Benyamin et al. as utilizing both logic OR and logic AND in setting play list criteria. Therefore, the examiner

maintains that the combination of Benjamin et al. and Marko et al. teaches the limitation of “wherein the key information is set using a plurality of keywords with logic OR and logic AND,” as currently claimed.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-15, 26-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Benjamin et al. in view of Marko et al.

Referring to claims **1, 8, 26, and 34**, Benjamin et al. discloses a receiver/information processing terminal/method of storing/transferring additional information, comprising the steps of:

- receiving additional information obtained and transferred in which the additional information is multiplexed with an audio program; said additional information including at least information of an artist of the audio program (col. 8, l. 4-13; col. 14, l. 28-46; & Fig. 13);
- determining whether preset key information is included in the additional information, the key information comprising a program category preset by a user (the examiner notes that the tag includes a genre field and that the user can

set specific genres as play list criteria)(col. 13, l. 47-55, 59-61 & col. 14, l. 45-49);

- transferring the additional information to an information processing terminal (selected device) when the key information is included (col. 13, l. 30-32); and
- storing the additional information without the audio program in a storage medium only when the preset key information is determined to be included (col. 5, l. 43-50; col. 12, l. 51-66; col. 13, l. 33-34; & col. 14, l. 14-21, 28-51);
- wherein the key information is set using a plurality of keywords with logic OR (the examiner notes that the “prior to 1965” criteria uses OR logic, because the year must be one of: 1964 or 1963 or 1962 or ...) and logic AND (the examiner notes that the artist name “Beatles” criteria is combined with the year of recording criteria using AND logic)(col. 13, l. 47-65 & col. 14, l. 10-27, 49-55).

Benyamin et al. does not disclose that the additional information is obtained and transferred by a receiver receiving a digital radio broadcast. Marko et al. discloses a digital radio broadcast receiver that receives content comprising auxiliary information (col. 4, l. 24-27, 36-46; col. 5, l. 41-51; & Figs. 1, 6). Marko et al. further discloses storing the content on a storage medium from which it is transferred to a device (the examiner notes that the content could be transferred to the computer 124 of Benyamin et al. and that Benyamin et al. discloses multiple methods of acquiring content)(Benyamin et al. col. 8, l. 4-11)(Marko et al. col. 7, l. 16-22 & Fig. 7). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Benyamin et al. to receive digital radio broadcast content, such as that taught by

Marko et al. in order to record a composite data stream and retrieve selected content therefrom (Marko et al. col. 2, l. 43-45).

Referring to claims **2**, **9**, and **27**, the combination of Benyamin et al. and Marko et al. teaches a method of storing additional information/method of transferring additional information/receiver according to claims 1, 8, and 26, respectively, wherein when the additional information includes a data portion consisting of a payload and a header portion consisting of information associated with the payload, information included in the header portion of the additional information is set as the key information, and when the key information is included in the header portion, the additional information including the header portion is stored in the storage medium (Benyamin et al. col. 13, l. 33-34 & col. 14, l. 49-51).

Referring to claims **3**, **10**, and **28**, the combination of Benyamin et al. and Marko et al. teaches a method of storing additional information/method of transferring additional information/receiver according to claims 1, 8, and 26, respectively, wherein when the additional information includes a data portion consisting of a payload and a header portion consisting of information associated with the payload, information included in the header portion of the additional information is set as the key information, and when the key information is included in the header portion, the data portion associated with the header portion is stored in the storage medium (this limitation is taught by the citation noted in claim 2 above).

Referring to claims **4**, **11**, and **29**, the combination of Benyamin et al. and Marko et al. teaches a method of storing additional information/method of transferring additional information/receiver according to claims 1, 8, and 26, respectively, wherein said step of storing/transferring stores/transfers, in addition to the additional information including the key

information, main information of the associated program in the storage medium (this limitation is taught by the citation noted in claim 2 above).

Referring to claim **5**, the combination of Benyamin et al. and Marko et al. teaches the method of storing additional information according to claim 1, wherein said step of storing stores accompanying information in association with the additional information (this limitation is taught by the citation noted in claim 2 above).

Referring to claims **6**, **12**, and **30**, the combination of Benyamin et al. and Marko et al. discloses a method of storing additional information/method of transferring additional information/receiver according to claims 1, 8, and 26, respectively, wherein said receiver also receives further information of a program other than the program being received and transfers the further additional information (Marko et al. col. 5, l. 41-51).

Referring to claims **7**, **13**, and **31**, the combination of Benyamin et al. and Marko et al. teaches a method of storing additional information/method of transferring additional information/receiver according to claims 1, 8, and 26, respectively, further comprising the steps of transferring the additional information stored in the storage medium to a receiver, wherein the receiver displays the transferred additional information on a display unit thereof (the examiner notes that Marko et al. teaches playing back content on the receiver)(Marko et al. col. 6, l. 11-18 & col. 7, l. 47-51).

Referring to claims **14** and **32**, the combination of Benyamin et al. and Marko et al. teaches a method of transferring additional information/receiver according to claims 8 and 26, respectively, wherein a step of determining stores additional information in a storage means when it is determined that the key information is included (Benyamin et al. col. 14, l. 49-51 &

col. 13, l. 33-34). The combination of Benyamin et al. and Marko et al. further teaches automatically updating play lists by use of a trigger when tracks are made accessible (Benyamin et al. col. 15, l. 1-14, 17-19, 23-27). The combination of Benyamin et al. and Marko et al. does not teach a step of transferring that transfers the additional information to an external device at a predetermined timing. Applicant's failure to adequately traverse the Examiner's taking of Official Notice (that it is well known within the prior art to trigger the transfer of data such that the transfer takes place at a predetermined time) in the last Office Action is taken as an admission of the fact(s) noticed. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the trigger of Benyamin et al. in the combination of Benyamin et al. and Marko et al. to transfer data at a predetermined time, such as that taught by the admitted prior art in order to limit the consumption of processing resources.

Referring to claims 15 and 33, the combination of Benyamin et al. and Marko et al. teaches a method of transferring additional information/receiver according to claims 8 and 26, respectively, wherein a step of determining stores additional information in a storage means when it is determined that key information is included (col. 13, l. 33-34 & col. 14, l. 49-51). The combination of Benyamin et al. and Marko et al. does not teach a step of transferring that deletes the additional information from the storage means after the additional information has been transferred. Applicant's failure to adequately traverse the Examiner's taking of Official Notice (that it is well known within the prior art to delete data from storage after the data has been transferred (cutting and pasting files, for example)) in the last Office Action is taken as an admission of the fact(s) noticed. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the method of transferring files taught by the

combination of Benyamin et al. and Marko et al. to include deleting data from storage after the data has been transferred, such as that taught by the admitted prior art in order to free up more memory space.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600